

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
MIDDLE DIVISION**

**MAC EAST, LLC,
an Alabama Limited Liability
Corporation,**

Plaintiff,

v.

SHONEY'S, INC.,
a Tennessee Corporation,

Defendant.

**CIVIL ACTION NO.:
2:05-CV-1038(F)**

MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ., P. 56, defendant, Shoney's, LLC, as successor-in-interest to Shoney's, Inc., hereby moves for summary judgment on each of the claims asserted by plaintiff, Mac East, LLC. The evidence reveals that there are no genuine issues of material fact, and therefore, summary judgment is appropriate in this case. The grounds for this motion are fully set forth in the defendant's brief in support of the motion for summary judgment, filed contemporaneously herewith.

This Motion for Summary Judgment is based upon the following evidentiary materials:


- 1) The pleadings in this case;
- 2) The Defendant Shoney's, LLC's First Set of Interrogatories, Requests for Production and Requests for Admission to Plaintiff, Mac East, LLC, which are attached hereto as Exhibit 1 (referred to as **"Shoney's First Discovery Request"**);
- 3) Responses to Discovery submitted by plaintiff, Mac East, LLC, which are attached hereto as Exhibit 2 (referred to as **"Mac East's Responses to Discovery"**); and

- 4) Affidavit of Donna Power dated April 18, 2006, which is attached hereto as Exhibit 3 (referred to as the "**Power Affidavit**").

Respectfully submitted,



James N. Nolan
Middle District I.D. No. ASB-6012-N61J



Paul O. Woodall, Jr.
Middle District I.D. No. ASB-4297-O59P

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CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send a notification of such filing to the following:

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s/ Paul O. Woodall, Jr.
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